6190728/2022/LEGAL-II-HOM01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Home Department - The Andhra Pradesh State / District Level Police Complaints Authority (Administration and Procedure) Rules, 2022 - Notification - Orders - Issued.

HOME (LEGAL-II) DEPARTMENT

G.O.MS.No.112 Dated:01-08-2022

Read the following:-

1. Judgment of the Hon'ble Supreme Court of India, dated:22.09.2006 in WP (Civil) No.310/96 reported in (2006) 8 SCC.
2. Orders of Hon'ble High Court for the State of Andhra Pradesh and Telangana dated:27.04.2017 in W.P.No.14072/2016, 45558/2016 and 13559/2017.
3. Orders of Hon'ble High Court for the State of Andhra Pradesh and Telangana, dated:24-01-2018 in Writ Appeal No.47 of 2018.
4. G.O.Ms.No.125, Home(Legal.II) Department, dated:29.10.2020.
5. From the Advocate General, High Court Buildings, Nelapadu, Amaravathi, Guntur Dist. Lr. No.381/2021, dt:16.09.2021.
6. From the Learned Advocate General, High Court Buildings, Amaravathi, Opinion No.150 of 2021,dt:03.12.2021 & Lr.No.538/2021,dt:03.12.2021.
7. From the Learned Advocate General, High Court Buildings, Amaravathi, Lr.No.52/2022, dt:10.02.2022 and Letter No.292/2022, Dt:04.07.2022.
8. G.O.Ms.No.57, Home(Legal-II) Dept., dated:20.06.2021.
9. G.O.Ms.No.71, Home(Legal-II) Dept., dated:08.07.2021.
10. G.O.Ms.No.72, Home (Legal-II) Dept., dated:08.07.2021.

-:0:-

ORDER:

Government after careful examination of the matter hereby, issue the Andhra Pradesh State/ District Level Police Complaints Authority (Administration and Procedure) Rules, 2022, in supersession of earlier rules issued in G.O.Ms.No.125, Home (Legal.II) Department, dated 29.10.2020. Consequently the appointments made under G.O.s 8th, 9th and 10th read above are withdrawn.

2. Accordingly, the following notification will be published in the Extraordinary issue of the Andhra Pradesh Gazette, dated:01-08-2022.

NOTIFICATION

In compliance with the orders of the Hon'ble Supreme Court of India dated 22.09.2006 in W.P (Civil) No.310/96 reported in (2006) 8 SCC and orders of the Hon'ble High Court for the State of Andhra Pradesh and Telangana dated:27.04.2017 in W.P.No.14072/2016, 45558/2016 and 13559/2017 read with in Writ Appeal No.47 of 2018, the orders dated 24-01-2018, the Government of Andhra Pradesh hereby makes the following rules on Police Complaints Authority.

RULES

1. Short Title and Commencement:- These Rules may be called the Andhra Pradesh State/District Level Police Complaints Authority (Administration and Procedure) Rules, 2022.

2. Definitions :- In these Rules, unless the context otherwise requires:-

(a) *"Authority"* means the State/District Level Police Complaints Authorities as established.

(Contd.P.2)

(b) *"Chairperson"* means the Chairperson of the State/District Level Police Complaint Authority appointed by the Government.

(c) *"Code"* means the Code of Civil Procedure, 1908 (V of 1908).

(d) *"complainant"* means a victim or a person by whom or on whose behalf a complaint is made under this Act;

(e) *"complaint"* means a complaint about misconduct, taken cognizance by the State/District Level Police Complaints Authority under the Act;

(f) *"Enquiry"* means an enquiry instituted as per procedure specified in;

(g) *"Government"* means the Government of Andhra Pradesh;

(h) "Headquarter" means any headquarter as fixed by the Government from time to time;

(i) *"Member"* means a member of the State/District Level Police Complaints Authority as appointed.

(j) "Serious Misconduct" means incidents involving death, grievous hurt or rape in police custody, extortion, land / house grabbing or any incident involving serious abuse of authority, in respect of Police Officers.

(k) *"Unit"* means a Police Commissionerate, District, specialized branch of the Police or allied departments, including but not limited to the SID, CID, ACB, SRPF and training institutions etc.;

3. Constitution of Police Complaints Authority:-

1. (a) A State Police Complaints Authority shall consist of one Retired Judge of the High Court / Supreme Court who shall act as Chairman of the Authority and he will be assisted by three to five other members.

(b) District Police Complaints Authority shall consist of one retired District Judge who shall act as Chairman of the District Police Complaints Authority and he will be assisted by three to five other members.

Provided that the Chairperson of one District Authority may be appointed as the Chairperson of more than one District Authorities.

(c) The Chairman of the State Police Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice.

(d) The Chairman of the District Police Complaints Authority shall be selected by the State Government out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him.

(e) The Members of the State Police Complaints Authority & District police Complaints Authorities shall be selected by the State Government from a panel prepared by the State Human Rights Commission / Lok Ayukta / State Public Service Commission. The panel may include members from amongst retired civil servants, Police officers or officers of any other department or from civil society with proven credentials.

2. **It shall discharge the following functions:**

(a) State Level Police Complaints Authority shall look into the complaints made against the officers of the rank of Addl.Superintendent of Police and above and shall take into cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody.

(Contd.P.3)

(b) The District Police Complaints Authority would apart from the above cases, shall also inquire into allegations of extortion, land /house grabbing or any incident involving serious abuse of authority, in respect of Police Officers of and up to the rank of Deputy Superintendent of Police in the District.

4. **Tenure and Remuneration:**

(a) Chairperson of State/District police complaints authority shall hold the office for a period of three years from the date of taking charge of the office.

(b) Whenever a retired officer or other than employee is appointed as a Member of State/ District Police Complaints authority, he shall hold the office for a period of three years from the date of taking charge of the office.

(c) remuneration :- Chairman of State /District Police Complaints Authority and if the member is a retired employee, he shall be paid remuneration equal to the last salary drawn minus pension or a consolidated amount fixed by the Government.

5. **Place of sitting and Jurisdiction of the Authority:** Place of the sitting of the Authority shall be ordinarily be at its headquarter. However, it may, at the discretion of the Chairperson, hold its meetings at any other place, if he considers the same necessary and expedient.

6. **Complaints not ordinarily entertainable:** The Authority shall dismiss, complaints of the following nature, namely,-

(a) vague, anonymous, pseudonymous, illegible, trivial or frivolous ;

(b) when the complaint is presented after one year from alleged act and/or inaction ;

(c) shall not inquire in Civil disputes, etc. except against Police Officers indulging in house or land grabbing, etc. ;

(d) relate to service matters or labour or industrial disputes ;

(e) matter is sub-judice before a court or any tribunal ;

(f) matter is covered by a judicial verdict or decision of the Tribunal or any other Judicial or Quasi-Judicial Authority ;

(g) matter is outside the purview of the Police Complaints Authority.

(h) the complaint has not been made to senior supervisory officer or one has not elapsed since filing of such complaint.

7. **Decisions of the Authority: -**

(a) Every proceeding of the Authority shall be chaired by the Chairperson with the Members in attendance.

(b) The Administrative Officer shall record minutes of every meeting of the Authority. The Administrative Officer or designated officer of the Authority shall maintain the records of the Authority.

(c) No decision of the Authority shall be held invalid only on account of technical grounds in the appointment of the Chairperson or Member.

(d) A master copy of all the approved minutes of every meeting shall be maintained by the administrative officer.

(Contd.P.4)

(e) Report of follow-up action in regard to decisions taken by the Authority shall be submitted by the administrative officer at every subsequent meeting, till the decision is implemented.

8. **Procedure for filing and registering complaints: -**

(i) Any person who desires an enquiry to be made by the Authority into one or more instances of *"misconduct"* of police personnel shall submit to the Authority, a written complaint preferably in Telugu or English.

(ii) A complaint shall be submitted on plain paper, providing all the relevant details of the instance to the extent available or shall be submitted through online digital format. No fee shall be chargeable on complaints.

(iii) Every complaint so filed shall be supported by a self-attested declaration as provided in Annexure "A" appended to these Rules, stating that all the relevant details mentioned in the complaint are true and correct on the basis of his personal knowledge.

(iv) A complaint can be submitted by post or by courier or posted by email or in digital format on the website of the Authority or in person at the office of the Authority.

(v) A complainant may, if he so desires and to the extent possible supply copies of the documents or records, in support of the allegations made, including:-

(a) a medical report or any certificate issued by a qualified doctor disclosing nature of injuries on the body of the victim, who had examined the victim immediately after the occurrence of the incident,

(b) photographs showing the injuries on the person of the victim or records at the time of enquiry,

(c) audio or video recordings, relating to the allegations contained in the application,

(d) relevant extract of the dairy of the police station concerned,

(e) copy of the first information report (F.I.R.), if any,

(f) copy of the memorandum of arrest,

(g) any other document considered relevant by the complainant.
The complainant can file photocopies of the documents or records mentioned in the above clauses.

(vi) The administrative officer of the Authority shall record a complaint case under the directions of the Authority, acting suo-moto or upon information received from the National Human Rights Commission (NHRC) or the State Human Rights Commission (SHRC) or the Lokayukta or the Government or any other public authority.

(vii) The administrative officer of the Authority shall maintain registers, in the proforma specified by the Authority, about the complaints recorded in the Authority.

(Contd.P.5)

(viii) Screening and Referral of complaints by the Authority:-

(a) Upon registration of a complaint case, the administrative officer shall place the complaint along with the supporting documents received, before the Authority within seven working days after receipt of the complaint, for further directions.

(b) The Authority shall examine the complaint and all supporting documents and determine whether the Authority have jurisdiction to enquire into the complaint or otherwise.

(c) After examination of the complaint, if the Authority is of the opinion that the subject matter of the complaint does not fall within the Authority's jurisdiction, then the Authority shall reject the complaint after recording the reasons in writing but so far as possible within fifteen (15) days from the date of the complaint.

(d) Upon preliminary examination of the complaint, if the Authority is of the view that no prima facie case is made out, it shall reject the complaint for the reasons recorded in writing, so far as within fifteen (15) days from the registration of the complaint.

(e) If the Authority is satisfied that the complaint falls within its jurisdiction and there exists a prima-facie case to conduct the enquiry, then the Authority shall proceed with the enquiry under these Rules.

(f) The administrative officer of this Authority shall issue authenticated order of the Authority made under these Rules and communicate, free of charge, a copy of the order to the complainant or representative of the complainant as the case may be.

9. Conduct of enquiry: -

(1) Where the Authority decides to conduct an enquiry in any complaint, it shall issue notice, as per Annexure "B" appended to these Rules, to all respective employee or officer who are related with that matter or against whom a complaint has been made.

(2) Every notice issued by the Authority to the respondent under sub rules (1), shall be accompanied with a copy of documents, along with supporting documents, if any, filed along with the complaint.

(3) When notice is issued under sub-clause (2) to any respondent, a copy of the same shall be sent to the Superior Officer of such Respondent.

(4) A respondent officer shall submit his reply to the Authority within thirty days of the receipt of the notice, issued under sub-rules (1), along with supporting documents, if any, if he so desires.

(5) The Administrative officer of the authority shall transmit to the complainant, free of charge, copy of the reply and the copies of supporting documents received from the respondent officer within seven working day of receipt of such a reply.

(6) In case the Authority refers a complaint received to any other agency or officer for the purpose of conducting an enquiry, such agency shall complete the enquiry into the matter as expeditiously as possible, and submit a report along with supporting documents to the Authority within a period of sixty days.

(Contd.P.6)

(7) The Administrative officer of the authority shall transmit to the complainant, free of charge, a copy of the report received, under sub regulation (5), within seven days from the date of receipt of the report.

(8) The Administrative officer of the authority shall maintain a case record and progress report of each complaint on every day of proceedings in writing.

(9) The Administrative officer of the authority shall maintain records of the meeting and shall obtain signature of the Chairperson and the members on the said minutes of the meeting.

10. Issue of Notice of Hearing:-

(1) The Authority shall hold hearing of the complaint case as deemed necessary after giving due notice to the parties, including the complainant, his representative or the victim as the case may be.

(2) The Administrative officer shall notify all the concerned parties, the date of hearing well in advance, but at least seven days before the listing of the complaint for hearing. However, in case of urgency, the Authority may waive this period of notice and proceed at the earliest possible.

(3) When notice of hearing is issued to any Respondent, a copy of the same shall be sent to the Superior Officer of such Respondent.

(4) Every officer who has received notice of hearing under sub-rules (3), shall immediately communicate the same to the concerned Respondent Officer and ensure that such officer is given leave or permission to attend the hearing on the stipulated date.

(5) The Authority may also call and hear any other person other than the concerned parties, as and when required.

(6) The Authority may call for concerned documents, any record or public document concerned with an enquiry from any police officer or public servant.

11. Conduct of Hearing:-

(1) The Authority shall observe principle of natural justice in the conduct of every hearing in the enquiry.

(2) The hearing shall be conducted in the official language of the State. However, as an exception, the hearing may be conducted in Hindi or English also.

(3) The Administrative officer of the Authority shall maintain a record of the proceedings of every hearing.

12. Appearance at a hearing:-

(1) The parties to a complaint shall appear at a hearing in person or through their Legal Representative.

(2) Legal representative of persons can attend a hearing by obtaining leave of the Authority, which the Authority may grant for reasons recorded in writing.

(Contd.P.7)

(3) The Authority may issue summons to any person (as per Annexure "C"), who has knowledge of the matter and facts relating to the complaint, to appear at a hearing for purpose of examination, obtaining evidence on oath or producing documents or record relevant to the case or both or as the case may be, as the Authority deems fit.

(4) Every enquiry initiated on the basis of a complaint received by the Authority shall be completed and report be submitted to the State Government, as expeditiously as possible and in any case not exceeding a period of ninety days from the date of receipt of complaint:

Provided that, the authority shall not grant more than three adjournments to respondent officer or complainant, during the pendency of a complaint.

(5) In the report submitted to the State Government after expiry of the time limit mentioned in the above sub-regulation (4), the Authority shall record the reasons for delay in writing.

(6) The complainant or a victim or a respondent officer may apply for adjournment of a hearing at least three days in advance before the date of hearing.

(7) Ordinarily the Authority shall not grant adjournment of hearing unless reasonable cause is shown by the concerned party to a case and in every instance; the Authority shall record reasons in writing for grant of adjournment.

(8) Where an adjournment is granted on the plea of a respondent officer for reasons of performance of unavoidable official duty, the hearing may be held on the next working day:

Provided that, the Authority shall not grant more than three adjournments to a Respondent Officer, during the pendency of a complaint against him.

(9) Where a complainant or a victim or the Respondent Officer fails to appear before the Authority, the Authority shall proceed with the case exparte.

13. **Decisions and Directions of the Authority:-**

(1) Upon completion of an enquiry, the Authority shall communicate its findings to the State Government, the concerned officers and their senior supervisory officer.

(2) The Authority shall take into consideration any additional fact or information or submission received under sub-regulation (2), before arriving at findings on the complaint in accordance with the time limit specified in the earlier Rule.

(3) In its findings, the Authority may affirm or revise its findings or the directions recorded under sub-regulation (1) or (2).

(4) Every findings of the Authority shall contain:-

(a) a summary of the allegations in the complaint ;

(Contd.P.8)

(b) a summary of the reply, report and submissions received by the Authority;

(c) the findings of the Authority ;

(5) After completion of the enquiry, if the Authority comes to the conclusion that the complaint so filed by the complainant or his representative or the alleged victim is frivolous, false, vexatious, malicious or with ulterior motive, the Authority may order to take action against such party according to law.

(6) The Administrative officer shall notify the date of pronouncement of final decision at least three working days in advance.

(7) Findings of the Authority shall be pronounced in open proceedings by the Chairperson or any Member authorized by Chairperson for this purpose and the same shall be communicated to the concerned authorities for implementation.

(8) The person pronouncing the findings of the Authority shall read out the operative part of the decision and cause the explanation of the substance thereof to the complainant or the victim in the official language or in Hindi or English, as an exception.

(9) The Administrative officer of the authority shall duly authenticate final decision of the Authority and without any delay cause copies of the decision to be provided to the parties, free of charge.

14. **Transparency in the working of the Authority: -**

(1) Ordinarily hearing of the Authority shall be open to the public :

Provided that, in exceptional circumstances and for reasons recorded by the Authority in writing, such hearing may be held in camera.

(2) The Administrative officer of the Authority shall be responsible to create, develop and update an internet website in the official language of the Authority or in English.

(3) The Administrative officer of the Authority shall prepare and display on its website or its notice board, the cause-list of the cases listed daily, weekly and monthly.

(4) All decisions of the Authority shall be uploaded on the website of the Authority regularly without any delay.

(5) All applications received by the Authority for information under the Right to Information Act, 2005 shall be disposed off as per the provisions of that Act.

(6) The Administrative officer of the Authority shall publish and disseminate basic information of the Authority and its procedure through print, electronic and/ or social media.

(7) Without prejudice to sub-regulation (1) above, the Administrative officer shall within six months of the constitution of the Authority publish a booklet/guide, giving the contact details, powers and functions of the

(Contd.P.9)

Authority, the procedure for filing complaint, prescribed forms or formats for the purpose of receiving and disposing of complaints and the remedies available to the complainant.

(8) The Administrative officer of the authority shall update the said booklet/guide, from time to time.

(9) The Government shall make copies of this booklet/guide available at the offices of the Authorities, at every Police Station and all other offices of the Police Department, as far as possible, free of charge.

15. **Annual report of the Authority:** - The Authority shall submit to the State Government an annual report at the end of the financial year on the following subjects:

(a) number and type of complaints enquired into by the Authority;

(b) number and type of cases of misconduct enquired into by the Authority;

(c) number and type of cases if referred to any other agency or officer for the purpose of conducting an enquiry;

(d) findings of the Authority in each case;

(e) extent of any delay and the reasons for the delay in completing any enquiry;

(f) identifiable patterns of misconduct of police personnel in the state;

(g) recommendations for enhancing the accountability of the police.

16. **Power of Authority to issue orders, circulars, etc:** - The Chairperson of the Authority shall issue necessary administrative orders, circulars and clarifications etc. from time to time to ensure the smooth functioning of the Authority.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

HARISH KUMAR GUPTA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Printing, Mutyalampadu, Vijayawada - with a request to publish the same in Andhra Pradesh Gazette and send (25) copies.
The Director General of Police, Andhra Pradesh, Manglagiri.
Copy to:
The Special Counsel for AP, High Court Buildings, Hyderabad.
The P.S to Special Chief Secretary to C.M.
The P.S. to Chief Secretary to Government.
The OSD to Minister for Home and Disaster Management.
The P.S. to Principal Secretary to Government, Home Department.
The P.S. to Secretary to Government, Law Department.
The General Administration (Ser.A) Department.
The Law (C) Department.
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER

(Annexure to G.O.Ms.No.112, Home (Legal-II) Dept.,dated:01.08.2022)

Annexure- A

Self Attested Declaration
On plain paper (No Court fee required)

I Shri/Smt./Ms._____son/ daughter/wife/widow of _____ aged _____ years, permanent and current address as given below, having Aadhaar No._____ (self attested copy attached) do swear in the name of God and hereby solemnly affirm and state as follows:

1. That I am the complainant in the accompanying complaint / have authorized Shri/Smt./ Ms._____ to file the authorized Shri/Smt./Ms._____ to file the accompanying complaint as I am unable to file the same because of_____ _____ reason.

2. That the facts stated in the attached complaint in paras _____ are true to the best of my knowledge and in paras _____ are true to my information and belief.

3. I therefore request you to enquire into the above complaint and take further action as deemed fit.

Deponent

Name : _____

Permanent Address

(Annexure to G.O.Ms.No.112, Home (Legal-II) Dept.,dated:01.08.2022)

Annexure- B

State/District Level Police Complaints Authority at _____
Summons to Produce Document/s

No. DPCA / of

To _____
_____
_____

Name(s), Designation & Address(es) of Public servant(s);

Whereas a complaint has been made before the Division Level Police Complaints Authority at Respective Headquarter by _____
_____
_____ (name and address of complaint) against you, the above-named, containing grievance/ allegation in respect of _____
_____
_____ and it appears to the Chairperson, State/District Level Police Complaint Authority desirable for the purpose of inquiry/ investigation that the relevant document(s) should be produced before him.

You are hereby summoned to attend and produce or cause to be produced through your servant, clerk or agent, the said document(s) before him in his office on _____ at _____O'clock. Herein fail not.

Given under my hand and seal of the office.

Dated :

Administrative Officer,
State/District Level Police Complaints Authority.

(Annexure to G.O.Ms.No.112, Home (Legal-II) Dept., dated:01.08.2022)

Annexure -C

State/District Level Police Complaints Authority at _____

Summons to Witness

No. DPCA / of _____

..Complaint

Vs.

_____..Police Officer

To,

_____

_____

_____

Whereas your attendance is required as a witness before the Chairperson, State/District Level Police Complaint Authority on behalf of _____ _____ in the above complaint, you are hereby required to appear personally before him on the _____ at _____ O'clock and to bring with you the relevant documents or to send them through your servant or agents able to prove them.

Given under my hand and seal of the office.

Dated :

Administrative Officer,
State/District Level Police Complaints Authority.